

REMARKS:

- 1) The Final Status shall be withdrawn, and the examination shall be continued on the basis of the presently amended claims, in view of the accompanying Request for Continued Examination (RCE).
- 2) The Response filed on January 19, 2006 was a complete Response to the Final Office Action of October 19, 2005. Nonetheless, this Supplemental Response voluntarily submits additional amendments and remarks as a supplement. Thus, both the Response of January 19, 2006 and the present Supplemental Response should be considered together for the next examination of this application.
- 3) A few clerical corrections have been made in the specification. Claim 1 has been further amended to emphasize the apparatus features and avoid any unintended interpretation of this claim reciting functions or method features. Also, claim 1 has been further amended to make expressly clear that the deflecting elements are fixed in a stationary manner relative to the housing of the muffler. A minor clerical defect has been corrected in claim 19. New claims 25 and 26 have been added. Independent claim 25 is submitted as a fresh approach at covering a particular preferred example, with different claim format and terminology in comparison to the original claims, which were essentially a literal translation of corresponding foreign claims. Claim 25 particularly defines the arrangement according to Figs. 1 to 4 in which the gas outlet is proximate to the end

4541/WFF:he

- 12 -

of the muffler housing having the gas inlet, and the arrangement of the deflecting discs on a gas inlet pipe that extends axially in the muffler chamber. Claim 25 is supported by the original disclosure of claim 1, Figs. 1 to 4, page 7 line 14 to page 8 line 18, page 11 line 21 to page 12 line 4, and page 15 lines 20 to 24, and thus does not introduce any new matter. New dependent claim 26 further defines the slot configuration between adjacent guide vanes, and is supported by the original disclosure of claim 3, Figs. 3 and 4, and page 9 lines 22 to 25, and thus does not introduce any new matter. Entry and consideration of these amendments are respectfully requested.

- 4) The substantive remarks set forth in the prior Response are incorporated herein by reference and reasserted. Additionally, please consider the following supplemental remarks in the next examination of this application.
- 5) In the Advisory Action, the Examiner asserted that a combination of the Floyd Jr. and Ross references would have been motivated by the prior art considerations, and would have suggested the present invention. That is respectfully traversed in view of the significant differences between the two references, and between a combination of the references and the present claims.
- 6) The references do not disclose and would not have suggested gas deflecting elements that are fixed stationary relative to the muffler housing and that have the guide vane configuration or structure as presently claimed. To the contrary, the deflecting

4541/WFF:he

- 13 -

elements (17) according to Floyd Jr. do not have the guide vane structure and configuration of the presently claimed deflecting elements (as acknowledged by the Examiner), while the fan wheels (14, 15, 16) according to Ross are necessarily rotatable within the housing. Thus, from the references, a person of ordinary skill in the art would have learned that only the particular deflecting element configuration of Floyd Jr. is suitable for a stationary deflecting element, and that the fan wheel configuration of Ross is only suitable for a rotatable fan wheel. Such disparate teachings would not have reasonably motivated a combination thereof. Namely, a fan blade configuration that only makes sense for a rotatable fan blade according to Ross, would not have been sensibly suggested for a stationary deflecting element, which is disclosed as having a different configuration according to Floyd Jr.

- 7) Furthermore, the Floyd Jr. patent dates from 1931, and the Ross patent dates from 1937. In the roughly 70 years since these two patents became known in the art, there has not been any known combination of the disparate features thereof in the art, as now proposed by the Examiner. It appears that the combination of references is motivated only by a hindsight reconstruction of the present invention, as 70 years of further developments in the actual technical art have not achieved or even suggested such a combination. Still further, the arrangement disclosed on paper in the Ross patent has apparently not become used in actual practice, i.e. there does not seem to be any known real-world practice of the "paper prior art" of Ross, in the almost 70 years

since issuance of the Ross patent. That is because the Ross arrangement with a fan blade construction is considered (by the present inventors) to be non-functional in actual practice. This can be demonstrated through a test comparison of an example muffler constructed according to Ross and an example muffler constructed according to the features of present claim 1. In any event, a person of ordinary skill in the art is not motivated to utilize or further develop teachings of a reference that are regarded as non-functional and merely non-enabled theoretical "paper prior art", without being useful in actual practice.

- 8) The inventors of this application are prepared to conduct the abovementioned demonstration in an interview with the Examiner. Accordingly, applicant respectfully requests an interview with the Examiner, to conduct such a demonstration, or would submit evidence in another form (such as noise measurements and other test data, and/or a video tape), if such would be helpful to advance the application to allowance.
- 9) New independent claim 25 defines a different combination of features of the invention in comparison to claim 1. Claim 25 includes additional features that further distinguish over the prior art. For example, claim 25 defines the arrangement of the deflecting disks fixed non-rotatably on a gas inlet pipe that extends axially from one end into the chamber of the muffler housing. Neither Floyd, Jr. nor Ross disclose such an arrangement. Furthermore, claim 25 recites that the muffler includes a gas outlet communicating out of the muffler chamber

proximate to the end at which the gas inlet pipe extends into the muffler chamber. Neither Floyd, Jr. nor Ross disclose such an arrangement. Dependent claim 26 further defines the slot configuration of the slots of the guide vanes of the deflecting disks. Neither Floyd, Jr. nor Ross disclose such a configuration.

- 10) Favorable reconsideration and allowance of the application, including all present claims 1, 3 to 16, 18 to 21 and 23 to 26 are respectfully requested.

Respectfully submitted,  
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Applicant

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Enclosures:  
RCE Request Form  
Term Extension Request  
Form PTO-2038  
Transmittal Cover Sheet

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